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AMENDED IN SENATE JUNE 19, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2716

Introduced by Assembly Member Ma
(Coauthors: Assembly Members Laird, Swanson, and Torrico)
(Coauthors: Senators Cedillo, Kuehl, and Wiggins)

February 22, 2008

An act to amend Sections 226, 233, and 234 of, and to add Article 1.5 (commencing with Section 245) to Chapter 1 of Part 1 of Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2716, as amended, Ma. Employment: paid sick days.

Existing law authorizes employers to provide their employees paid sick leave.

This bill would provide that an employee who works in California for 7 or more days in a calendar year is entitled to paid sick days, as defined, which shall be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th calendar day of employment. The bill would require employers to provide paid sick days, upon the request of the employee, for diagnosis, care, or treatment of health conditions of the employee or an employee's family member, or for leave related to domestic violence or sexual assault. An employer would be prohibited from discriminating or retaliating against an employee who requests paid sick days. The bill would require employers to satisfy specified

posting and notice, and recordkeeping requirements. The bill would also make conforming changes.

This bill would require the Labor Commissioner to administer and enforce these requirements, including the promulgation of regulations, investigation, mitigation, and relief of violations of these requirements. This bill would authorize the department to impose specified administrative fines for violations and would authorize an aggrieved person, the commissioner, the Attorney General, or an entity a member of which is aggrieved to bring an action to recover specified civil penalties against an offender, as well as attorney's fees, costs, and interest.

The bill would specify that it applies to certain public authorities, established to deliver in-home supportive services, except where a collective bargaining agreement provides for an incremental wage increase sufficient to satisfy the bill's requirements for accrual of sick days. The bill would specify that it does not apply to employees covered by a collective bargaining agreement that provides for paid sick days, nor does it lessen any other obligations of the employer to employees. This bill would further specify that it does not apply to employees in the construction industry covered by a collective bargaining agreement if the agreement expressly waives the requirements of this article in clear and unambiguous terms.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) Nearly every worker in the State of California will at some
- 3 time during the year need some time off from work to take care
- 4 of his or her own health or the health of family members.
- 5 (b) Many workers in California do not have any paid sick days,
- 6 or have an inadequate number of paid sick days, to care for their
- 7 own health or the health of family members.
- 8 (c) Low-income workers are significantly less likely to have
- 9 paid sick time than other workers.
- 10 (d) Providing workers time off to attend to their own health care
- 11 and the health care of family members will ensure a healthier and
- 12 more productive workforce in California.

1 (e) Paid sick days will have an enormously positive impact on
2 the public health of Californians by allowing sick workers paid
3 time off to care for themselves when ill, thus lessening their
4 recovery time and reducing the likelihood of spreading illness to
5 other members of the workforce.

6 (f) Paid sick days will allow parents to provide personal care
7 for their sick children. Parental care ensures children's speedy
8 recovery, prevents more serious illnesses, and improves children's
9 overall mental and physical health.

10 (g) Providing paid sick days is affordable for employers and
11 good for business.

12 (h) Employers who provide paid sick days enjoy greater
13 employee retention and reduce the likelihood of employees coming
14 to work sick. Studies have shown that costs of decreased
15 productivity caused by sick workers exceed the costs of employee
16 absenteeism.

17 (i) Many adults have significant elder care responsibilities
18 requiring them to take time off from work or to work reduced
19 hours.

20 (j) Employees frequently lose their jobs or are disciplined for
21 taking sick days to care for sick family members or to recover
22 from their own illnesses.

23 (k) Workers whose jobs involve significant contact with the
24 public, such as service workers and restaurant workers, are very
25 unlikely to have paid sick days. Often, these workers have no
26 choice but to come to work when they are ill, thereby spreading
27 illness to coworkers and customers.

28 (l) Domestic violence and sexual assault affect many persons
29 without regard to age, race, national origin, sexual orientation, or
30 socioeconomic status.

31 (m) Domestic violence is a crime that has a devastating effect
32 on families, communities, and the workplace. It impacts
33 productivity, effectiveness, absenteeism, and employee turnover
34 in the workplace. The National Crime Survey estimates that
35 175,000 days of work each year are missed due to domestic
36 violence.

37 (n) Survivors of domestic violence and sexual assault may be
38 vulnerable at work when trying to end an abusive relationship
39 because the workplace may be the only place where the perpetrator
40 knows to contact the victim. Studies show that up to one-half of

1 domestic violence victims experience job loss. Forty percent
2 reported on-the-job harassment. Nearly 50 percent of sexual assault
3 survivors lose their jobs or are forced to quit in the aftermath of
4 the assaults.

5 (o) Affording survivors of domestic violence and sexual assault
6 paid sick days is vital to their independence and recovery.

7 SEC. 2. In enacting this act, it is the intent of the Legislature
8 to do the following:

9 (a) Ensure that workers in California can address their own
10 health needs and the health needs of their families by requiring
11 employers to provide a minimum level of paid sick days including
12 time for family care.

13 (b) Decrease public and private health care costs in California
14 by enabling workers to seek early and routine medical care for
15 themselves and their family members and to address domestic
16 violence or sexual assault.

17 (c) Protect employees in California from losing their jobs while
18 they use sick days to care for themselves or their families.

19 (d) Provide economic security to employees in California who
20 take time off work for reasons related to domestic violence or
21 sexual assault.

22 (e) Safeguard the welfare, health, safety, and prosperity of the
23 people of and visitors to California.

24 SEC. 3. Section 226 of the Labor Code is amended to read:

25 226. (a) An employer shall, semimonthly or at the time of each
26 payment of wages, furnish to each employee, either as a detachable
27 part of the check, draft, or voucher paying the employee's wages,
28 or separately if wages are paid by personal check or cash, an
29 accurate itemized statement in writing showing (1) gross wages
30 earned, (2) total hours worked by the employee, unless the
31 employee's compensation is solely based on a salary and the
32 employee is exempt from payment of overtime under subdivision
33 (a) of Section 515 or any applicable order of the Industrial Welfare
34 Commission, (3) the number of piece-rate units earned and any
35 applicable piece rate if the employee is paid on a piece-rate basis,
36 (4) all deductions, provided that all deductions made on written
37 orders of the employee may be aggregated and shown as one item,
38 (5) net wages earned, (6) the inclusive dates of the period for which
39 the employee is paid, (7) the name of the employee and his or her
40 social security number, except that by January 1, 2008, only the

1 last four digits of his or her social security number or an employee
2 identification number other than a social security number may be
3 shown on the itemized statement, (8) the name and address of the
4 legal entity that is the employer, (9) paid sick leave accrued and
5 used pursuant to Article 1.5 (commencing with Section 245), and
6 (10) all applicable hourly rates in effect during the pay period and
7 the corresponding number of hours worked at each hourly rate by
8 the employee. The deductions made from payments of wages shall
9 be recorded in ink or other indelible form, properly dated, showing
10 the month, day, and year, and a copy of the statement or a record
11 of the deductions shall be kept on file by the employer for at least
12 three years at the place of employment or at a central location
13 within the State of California.

14 (b) An employer that is required by this code or any regulation
15 adopted pursuant to this code to keep the information required by
16 subdivision (a) shall afford current and former employees the right
17 to inspect or copy the records pertaining to that current or former
18 employee, upon reasonable request to the employer. The employer
19 may take reasonable steps to assure the identity of a current or
20 former employee. If the employer provides copies of the records,
21 the actual cost of reproduction may be charged to the current or
22 former employee.

23 (c) An employer who receives a written or oral request to inspect
24 or copy records pursuant to subdivision (b) pertaining to a current
25 or former employee shall comply with the request as soon as
26 practicable, but no later than 21 calendar days from the date of the
27 request. A violation of this subdivision is an infraction.
28 Impossibility of performance, not caused by or a result of a
29 violation of law, shall be an affirmative defense for an employer
30 in any action alleging a violation of this subdivision. An employer
31 may designate the person to whom a request under this subdivision
32 should be made.

33 (d) This section does not apply to any employer of any person
34 employed by the owner or occupant of a residential dwelling whose
35 duties are incidental to the ownership, maintenance, or use of the
36 dwelling, including the care and supervision of children, or whose
37 duties are personal and not in the course of the trade, business,
38 profession, or occupation of the owner or occupant.

39 (e) An employee suffering injury as a result of a knowing and
40 intentional failure by an employer to comply with subdivision (a)

1 is entitled to recover the greater of all actual damages or fifty
2 dollars (\$50) for the initial pay period in which a violation occurs
3 and one hundred dollars (\$100) per employee for each violation
4 in a subsequent pay period, not exceeding an aggregate penalty of
5 four thousand dollars (\$4,000), and is entitled to an award of costs
6 and reasonable attorney's fees.

7 (f) A failure by an employer to permit a current or former
8 employee to inspect or copy records within the time set forth in
9 subdivision (c) entitles the current or former employee or the Labor
10 Commissioner to recover a seven-hundred-fifty-dollar (\$750)
11 penalty from the employer.

12 (g) An employee may also bring an action for injunctive relief
13 to ensure compliance with this section, and is entitled to an award
14 of costs and reasonable attorney's fees.

15 (h) This section does not apply to the state, to any city, county,
16 city and county, district, or to any other governmental entity, except
17 that if the state or a city, county, city and county, district, or other
18 governmental entity furnishes its employees with a check, draft,
19 or voucher paying the employee's wages, the state or a city, county,
20 city and county, district, or other governmental entity shall, by
21 January 1, 2008, use no more than the last four digits of the
22 employee's social security number or shall use an employee
23 identification number other than the social security number on the
24 itemized statement provided with the check, draft, or voucher.

25 SEC. 4. Section 233 of the Labor Code is amended to read:

26 233. (a) Any employer who provides sick leave for employees
27 shall permit an employee to use in any calendar year the
28 employee's accrued and available sick leave entitlement, in an
29 amount not less than the sick leave that would be accrued during
30 six months at the employee's then-current rate of entitlement, to
31 attend to an illness of a child, parent, spouse, or domestic partner
32 of the employee. All conditions and restrictions placed by the
33 employer upon the use by an employee of sick leave also shall
34 apply to the use by an employee of sick leave to attend to an illness
35 of his or her child, parent, spouse, or domestic partner. This section
36 does not extend the maximum period of leave to which an
37 employee is entitled under Article 1.5 (commencing with Section
38 245) of this chapter, Section 12945.2 of the Government Code, or
39 the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec.

2606 et seq.), regardless of whether the employee receives sick leave compensation during that leave.

(b) As used in this section:

(1) “Child” means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis.

(2) “Employer” means a person employing another under an appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities. *Employer also includes an entity under subdivision (a) of Section 12301.6 of the Welfare and Institutions Code who employs persons to perform domestic service comprising in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code.*

(3) “Parent” means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

(4) (A) “Sick leave” means accrued increments of compensated leave provided by an employer to an employee as a benefit of the employment for use by the employee during an absence from the employment for any of the following reasons:

(i) The employee is physically or mentally unable to perform his or her duties due to illness, injury, or a medical condition of the employee.

(ii) The absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the employee.

(iii) The absence is for other medical reasons of the employee, such as pregnancy or obtaining a physical examination.

(B) “Sick leave” includes paid sick days as defined in Section 245.5.

(C) “Sick leave” does not include any benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974 (P.L. 93-406, as amended) and does not include any insurance benefit, workers’ compensation benefit, unemployment compensation disability benefit, or benefit not payable from the employer’s general assets.

(c) An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an

1 illness of a child, parent, spouse, or domestic partner of the
2 employee.

3 (d) Any employee aggrieved by a violation of this section shall
4 be entitled to reinstatement and actual damages or one day's pay,
5 whichever is greater, and to appropriate equitable relief.

6 (e) Upon the filing of a complaint by an employee, the Labor
7 Commissioner shall enforce the provisions of this section in
8 accordance with the provisions of Chapter 4 (commencing with
9 Section 79) of Division 1, including, but not limited to, Sections
10 92, 96.7, 98, and 98.1 to 98.8, inclusive. Alternatively, an employee
11 may bring a civil action for the remedies provided by this section
12 in a court of competent jurisdiction. If the employee prevails, the
13 court may award reasonable attorney's fees.

14 (f) The rights and remedies specified in this section are
15 cumulative and nonexclusive and are in addition to any other rights
16 or remedies afforded by contract or under other provisions of law.

17 SEC. 5. Section 234 of the Labor Code is amended to read:

18 234. An employer absence control policy that counts sick leave
19 taken pursuant to Section 233 or Article 1.5 (commencing with
20 Section 245) as an absence that may lead to or result in discipline,
21 discharge, demotion, or suspension is a per se violation of Section
22 233. An employee working under this policy is entitled to
23 appropriate legal and equitable relief pursuant to Section 233.

24 SEC. 6. Article 1.5 (commencing with Section 245) is added
25 to Chapter 1 of Part 1 of Division 2 of the Labor Code, to read:

26
27 Article 1.5. Paid Sick Days
28

29 245. This article shall be known and may be cited as the
30 Healthy Families, Healthy Workplaces Act of 2008.

31 245.5. For the purposes of this article, the following terms have
32 the following meanings:

33 (a) "Family member" means any of the following:

34 (1) A biological, adopted, or foster child, stepchild, legal ward,
35 or a child to whom the employee stands in loco parentis.

36 (2) A biological, adoptive, or foster parent, stepparent, or legal
37 guardian of an employee or the employee's spouse or registered
38 domestic partner, or a person who stood in loco parentis when the
39 employee was a minor child.

40 (3) A spouse.

1 (4) A registered domestic partner.

2 (5) A grandparent.

3 (6) A grandchild.

4 (7) A sibling.

5 (b) "Health care provider" has the same meaning as defined in
6 paragraph (6) of subdivision (c) of Section 12945.2 of the
7 Government Code.

8 (c) "Paid sick days" means time that is compensated at the same
9 wage as the employee normally earns during regular work hours
10 and is provided by an employer to an employee for the purposes
11 described in Section 246.5.

12 (d) "Small business" mean an employer who employs 10 or
13 fewer employees during 20 or more calendar workweeks in the
14 current or preceding calendar year.

15 246. (a) An employee who works in California for seven or
16 more days in a calendar year is entitled to paid sick days as
17 specified in this section.

18 (b) (1) An employee shall accrue paid sick days at the rate of
19 no less than one hour for every 30 hours worked, beginning at the
20 commencement of employment or the operative date of this article,
21 whichever is first.

22 (2) An employee who is exempt from overtime requirements
23 as an administrative, executive, or professional employee under
24 any Wage Order of the Industrial Welfare Commission is deemed
25 to work 40 hours per workweek for the purposes of this section,
26 unless the employee's normal workweek is less than 40 hours, in
27 which case the employee will accrue paid sick days based upon
28 that normal workweek.

29 (c) An employee shall be entitled to use accrued paid sick days
30 beginning on the 90th calendar day of employment, after which
31 the employee may use paid sick days as they are accrued.

32 (d) Paid sick days shall be carried over to the following calendar
33 year. However, an employer may limit an employee's use of paid
34 sick days as follows:

35 (1) A small business employer may limit an employee's use to
36 40 hours or five days in each calendar year.

37 (2) All other employers may limit an employee's use to 72 hours
38 or nine days in each calendar year.

39 (e) An employer is not required to provide additional paid sick
40 days pursuant to this section if the employer has a paid leave or

1 paid time off policy and the employer makes available an amount
2 of leave that satisfies the accrual requirements of this section and
3 that may be used for the same purposes and under the same
4 conditions as specified in this section.

5 (f) (1) Except as specified in paragraph (2), an employer shall
6 not be required to provide compensation to an employee for
7 accrued, unused paid sick days upon termination, resignation,
8 retirement, or other separation from employment.

9 (2) If an employee separates from and is rehired by the same
10 employer within one year, any previously accrued, unused paid
11 sick days shall be reinstated. The employee shall be entitled to use
12 those accrued sick days and to accrue additional sick days upon
13 rehiring.

14 (g) An employer may lend paid sick days to an employee in
15 advance of accrual, at the employer's discretion and with proper
16 documentation.

17 246.5. (a) Upon the oral or written request of an employee,
18 an employer shall provide paid sick days for the following
19 purposes:

20 (1) Diagnosis, care, or treatment of an existing health condition
21 of, or preventive care for, an employee or an employee's family
22 member.

23 (2) For an employee who is a victim of domestic violence or
24 sexual assault, the purposes described in subdivision (c) of Section
25 230 and subdivision (a) of Section 230.1.

26 (b) An employer shall not require as a condition of taking paid
27 sick days that the employee search for or find a replacement worker
28 to cover the days during which the employee is on paid sick days.

29 (c) (1) An employer shall not deny an employee the right to
30 use sick days, discharge, threaten to discharge, demote, suspend,
31 or in any manner discriminate against an employee for using sick
32 days, attempting to exercise the right to use sick days, filing a
33 complaint with the department or in a court alleging a violation of
34 this article, cooperating in an investigation or prosecution of an
35 alleged violation of this article, or opposing any policy or practice
36 or act that is prohibited by this article.

37 (2) There shall be a rebuttable presumption of unlawful
38 retaliation if an employer denies an employee the right to use sick
39 days, discharges, threatens to discharge, demotes, suspends, or in

1 any manner discriminates against an employee within 90 days of
2 any of the following:

3 (A) The employee files a complaint with the Labor
4 Commissioner or in a court alleging a violation of this article.

5 (B) The employee cooperates with an investigation or
6 prosecution of any alleged violation of this article.

7 (C) The employee opposes any policy, practice, or act that is
8 prohibited by this article.

9 247. (a) An employer shall give each employee written notice
10 of the requirements of this article in English, Spanish, Chinese,
11 and any other language spoken by at least 5 percent of the
12 employees. The written notice must state the following:

13 (1) That employees are entitled to accrue, request, and use paid
14 sick days.

15 (2) The amount of paid sick days provided for by this article.

16 (3) The terms of use of paid sick days.

17 (4) That retaliation or discrimination against an employee who
18 requests paid sick days or uses paid sick days, or both is prohibited
19 and that an employee has the right under this article to file a
20 complaint or bring a civil action against an employer who retaliates
21 or discriminates against the employee.

22 (b) In each workplace, the employer shall display a poster in a
23 conspicuous place containing all the information specified in
24 subdivision (a). The Labor Commissioner shall create these posters
25 and make them available to employers.

26 (c) An employer who willfully violates the notice and posting
27 requirements of this section shall be subject to a civil fine of not
28 more than one hundred dollars (\$100) for each offense.

29 247.5. Employers shall keep for five years records documenting
30 hours worked and paid sick days accrued and used by employees.
31 Employers shall allow the Labor Commissioner access to these
32 records with appropriate notice and at a mutually agreeable time
33 to monitor compliance with this article. Employers shall make
34 these records available to employees pursuant to Section 226. If
35 an employer does not maintain adequate records pursuant to this
36 section, it shall be presumed that the employee is entitled to the
37 maximum number of hours accruable under this article, unless the
38 employer can show otherwise by clear and convincing evidence.

1 248. The Labor Commissioner is authorized and directed to
2 coordinate implementation and enforcement of this article and to
3 promulgate guidelines and regulations for those purposes.

4 248.5. (a) The Labor Commissioner is authorized and directed
5 to enforce this article, including investigating an alleged violation,
6 and ordering appropriate temporary relief to mitigate the violation
7 or to maintain the status quo pending the completion of a full
8 investigation or hearing.

9 (b) If the commissioner, after a hearing that affords due process,
10 determines that a violation has occurred, it may order any
11 appropriate relief, including reinstatement, backpay, the payment
12 of sick days unlawfully withheld, and the payment of an additional
13 sum as an administrative penalty to each employee or person whose
14 rights under this article were violated. If paid sick days were
15 unlawfully withheld, the dollar amount of paid sick days withheld
16 from the employee multiplied by three, or two hundred fifty dollars
17 (\$250), whichever amount is greater, shall be included in the
18 administrative penalty paid to the employee. In addition, if a
19 violation of this article results in other harm to the employee or
20 another person, such as discharge from employment, or otherwise
21 results in a violation of the rights of an employee or another person,
22 the administrative penalty shall include fifty dollars (\$50) to each
23 employee or person whose rights under this article were violated
24 for each day or portion thereof that the violation occurred or
25 continued.

26 (c) Where prompt compliance by an employer is not
27 forthcoming, the commissioner may take any appropriate
28 enforcement action to secure compliance, including filing a civil
29 action. In compensation to the state for the costs of investigating
30 and remedying the violation, the commissioner may order the
31 violating employer or person to pay to the state a sum of not more
32 than fifty dollars (\$50) for each day or portion of a day a violation
33 occurs or continues for each employee or person as to whom the
34 violation applies. These funds shall be allocated to the
35 commissioner to offset the costs of implementing and enforcing
36 this article.

37 (d) An employee or other person may report to the commissioner
38 a suspected violation of this article. The commissioner shall
39 encourage reporting pursuant to this subdivision by keeping
40 confidential, to the maximum extent permitted by applicable laws,

1 the name and other identifying information of the employee or
2 person reporting the violation. However, the commissioner may
3 disclose that person's name and identifying information as
4 necessary to enforce this article or for other appropriate purposes,
5 upon the authorization of that person.

6 (e) The commissioner, the Attorney General, a person aggrieved
7 by a violation of this article, or an entity a member of which is
8 aggrieved by a violation of this article may bring a civil action in
9 a court of competent jurisdiction against the employer or other
10 person violating this article and, upon prevailing, shall be entitled
11 to such legal or equitable relief as may be appropriate to remedy
12 the violation, including reinstatement, backpay, the payment of
13 any sick days unlawfully withheld, the payment of an additional
14 sum as liquidated damages in the amount of fifty dollars (\$50) to
15 each employee or person whose rights under this article were
16 violated for each day or portion thereof that the violation occurred
17 or continued, plus, if the employer has unlawfully withheld paid
18 sick days to an employee, the dollar amount of paid sick days
19 withheld from the employee multiplied by three; or two hundred
20 fifty dollars (\$250), whichever amount is greater; and reinstatement
21 in employment or injunctive relief; and further shall be awarded
22 reasonable attorney's fees and costs, provided, however, that any
23 person or entity enforcing this article on behalf of the public as
24 provided for under applicable state law shall, upon prevailing, be
25 entitled only to equitable, injunctive, or restitutionary relief, and
26 reasonable attorney's fees and costs.

27 (f) In any administrative or civil action brought under this article,
28 the commissioner or court, as the case may be, shall award interest
29 on all amounts due and unpaid at the rate of interest specified in
30 subdivision (b) of Section 3289 of the Civil Code.

31 (g) The remedies, penalties, and procedures provided under this
32 article are cumulative.

33 249. (a) This article does not limit or affect any laws
34 guaranteeing the privacy of health information, or information
35 related to domestic violence or sexual assault, regarding an
36 employee or employee's family member. That information shall
37 be treated as confidential and shall not be disclosed to any person
38 except to the affected employee, or as required by law.

1 (b) This article shall not be construed to discourage or prohibit
2 an employer from the adoption or retention of a paid sick days
3 policy more generous than the one required herein.

4 (c) This article does not lessen the obligation of an employer to
5 comply with a contract, collective bargaining agreement,
6 employment benefit plan, or other agreement providing more
7 generous sick days to an employee than required herein.

8 (d) This article establishes minimum requirements pertaining
9 to paid sick days and does not preempt, limit, or otherwise affect
10 the applicability of any other law, regulation, requirement, policy,
11 or standard that provides for greater accrual or use by employees
12 of sick days, whether paid or unpaid, or that extends other
13 protections to employees.

14 249.5. This article does not apply to an employee covered by
15 a valid collective bargaining agreement if the agreement expressly
16 provides for the wages, hours of work, and working conditions of
17 employees, and expressly provides for paid sick days or a paid
18 leave or paid time off policy that permits the use of sick days for
19 those employees, final and binding arbitration of disputes
20 concerning the application of its paid sick days provisions,
21 premium wage rates for all overtime hours worked, and regular
22 hourly rate of pay of not less than 30 percent more than the state
23 minimum wage rate.

24 249.6. (a) This article does not apply to an employee in the
25 construction industry covered by a valid collective bargaining
26 agreement if the agreement expressly provides for the wages, hours
27 of work, and working conditions of employees, premium wage
28 rates for all overtime hours worked, and regular hourly pay of not
29 less than 30 percent more than the state minimum wage rate, and
30 the agreement expressly waives the requirements of this article in
31 clear and unambiguous terms.

32 (b) For purposes of this section, “employee in the construction
33 industry” means an employee performing onsite work associated
34 with construction, including work involving alteration, demolition,
35 building, excavation, renovation, remodeling, maintenance,
36 improvement, repair work, and any other work as described by
37 Chapter 9 (commencing with Section 7000) of Division 3 of the
38 Business and Professions Code, and other similar or related
39 occupations or trades.

1 249.7. (a) *A public authority created under Section 12301.6*
2 *of the Welfare and Institutions Code shall be required to meet the*
3 *requirements of this article for individuals who perform domestic*
4 *services comprising in-home supportive services under Article 7*
5 *(commencing with Section 12300) of Chapter 3 of Part 3 of*
6 *Division 9 of the Welfare and Institutions Code.*
7 (b) *A public authority may satisfy the requirements of this article*
8 *by entering into a collective bargaining agreement that provides*
9 *an incremental hourly wage adjustment in an amount sufficient to*
10 *satisfy the accrual requirements of Section 246.*

O